

EXHIBIT 15

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL)
5 PRESCRIPTION) MDL No. 2804
6 OPIATE LITIGATION)
7 _____) Case No.
8) 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES) Hon. Dan A.
11 TO ALL CASES) Polster
12)

13 WEDNESDAY, APRIL 24, 2019

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Anna
18 Lembke, M.D., held at the offices of Lief
19 Cabraser Heimann & Bernstein, LLP, 275
20 Battery Street, 29th floor, San Francisco,
21 California, commencing at 8:07 a.m., on the
22 above date, before Carrie A. Campbell,
23 Registered Diplomate Reporter and Certified
24 Realtime Reporter.

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26 GOLKOW LITIGATION SERVICES
27 877.370.3377 ph | 917.591.5672 fax
28 deps@golkow.com

1 MR. ARBITBLIT: Object to form.

2 THE WITNESS: I would agree
3 that such a doctor is violating
4 medical ethics, but I have also
5 written and published on the problem
6 of prescribing, and we have shown,
7 using Medicare Part D data, that the
8 increase in opioid prescribing in this
9 country over the past three decades
10 was not primarily due to a small
11 subset of prolific prescribers or
12 so-called pill mill doctors, unethical
13 doctors, doctors who have lost their
14 moral compass. Those types of doctors
15 have always existed and will always
16 exist.

17 In fact, the increase in opioid
18 prescribing in this country has been
19 primarily driven by all types of
20 doctors across all types of
21 specialties because of the major
22 paradigm shift in the use of opioids
23 for minor and chronic pain conditions
24 as a result of misrepresentation of
25 the evidence on the part of the

1 defendants.

2 QUESTIONS BY MR. TSAI:

3 Q. If a doctor in the counties was
4 prescribing opioid medications purely for
5 their personal profit, knowing that the
6 individual they're providing opioids to did
7 not have a legitimate pain condition, would
8 you agree that doctor is committing a crime?

9 MR. ARBITBLIT: Object to form.

10 THE WITNESS: I would agree
11 that that doctor is committing a
12 crime, but I think doctors like that
13 constitute a small subset of the
14 overall opioid prescriptions.

15 QUESTIONS BY MR. TSAI:

16 Q. Okay. Do you have a method of
17 assigning the degree to which doctors in
18 Cuyahoga and Summit Counties, in your words,
19 bear some responsibility for the
20 overprescribing of opioids for chronic pain
21 versus the contribution of any of the other
22 factors we've discussed today?

23 MR. ARBITBLIT: Object to form.

24 THE WITNESS: I believe that
25 the majority of opioid prescribers in

1 Cuyahoga and Summit County and the
2 rest of the country are
3 well-intentioned doctors who were led
4 to believe that opioids work for
5 chronic pain and that the risks are
6 low, including the risk of addiction
7 and death.

8 QUESTIONS BY MR. TSAI:

9 Q. Have you reviewed any materials
10 or have any other basis, or conducted any
11 kind of quantitative analysis, to reliably
12 rule out the likelihood that doctors in
13 Cuyahoga and Summit Counties, in your words,
14 bear some responsibility for the
15 overprescribing of opioids for chronic pain
16 to individuals in those counties?

17 MR. ARBITBLIT: Object to form.

18 THE WITNESS: I think that
19 prescribers bear responsibility in the
20 sense that they were misled by the
21 defendants, and they weren't more
22 questioning of what they were taught
23 in the '90s and early aughts.

24 And so they bear some
25 responsibility in the sense of not

1 having been more skeptical about the
2 use of opioids, but in general, I
3 believe that doctors were primarily
4 duped by the defendants into
5 prescribing opioids for chronic pain
6 and minor pain conditions.

7 QUESTIONS BY MR. TSAI:

8 Q. And can you point to me
9 anywhere where you have quantified the degree
10 or extent of, as you say, the responsibility
11 of prescribers in Cuyahoga and Summit
12 Counties due to their lack of diligence or
13 negligence?

14 MR. ARBITBLIT: Object to form.

15 THE WITNESS: It's not a lack
16 of diligence or negligence. It's a
17 matter of a paradigm shift in the way
18 that doctors were pressured into
19 treating pain with opioids, and I have
20 quantified that in an article that we
21 published in The Journal of the
22 American Medical Association, showing
23 that the increase in opioid
24 prescribing based on the Medicare
25 Part D database -- which is a database

1 that covers the entire United States,
2 showing that increased prescribing has
3 not been driven primarily by a small
4 subset of prolific prescribers, but by
5 a paradigm shift in prescribing
6 opioids across all different types of
7 prescribers such that we were all
8 prescribing more opioids as a result
9 of misrepresentation of the evidence
10 by the defendants.

11 QUESTIONS BY MR. TSAI:

12 Q. And what was the quantification
13 of the degree of responsibility for
14 physicians in your analysis?

15 MR. ARBITBLIT: Object to form.

16 THE WITNESS: I feel like I've
17 answered that question.

18 QUESTIONS BY MR. TSAI:

19 Q. Well, if there's an amount or a
20 number, would that be in the article?

21 MR. ARBITBLIT: Object to form.

22 QUESTIONS BY MR. TSAI:

23 Q. Or was it a qualitative
24 analysis?

25 A. It was a quantitative analysis.

1 The article uses the
2 quantitative analysis of the Medicare Part D
3 database to demonstrate that pill mill
4 doctors, doctors who, as you suggested, are
5 committing crimes are not the major factor.
6 Those doctors exist.

7 Their behavior is
8 reprehensible, but the vast majority of
9 opioids prescribed in this country are
10 prescribed not by such ethically compromised
11 doctors, but by well-intentioned doctors who
12 have been prescribing according to the
13 misrepresentation of the evidence made
14 available to them by the actions of the
15 defendants.

16 (Lembke Exhibit 11 marked for
17 identification.)

18 BY MR. TSAI:

19 Q. So I'll introduce exhibit next
20 in order. So this is a --

21 A. I don't have it yet. Just grab
22 it?

23 Q. I'll describe it to you while
24 the court reporter is marking it.

25 I'll represent to you that this

1 is a press release from the US Department of
2 Justice. It's dated August 22, 2018.

3 Were you aware of that press
4 conference that happened right in Cleveland,
5 Ohio?

6 A. I might have read about it if
7 it was in the public domain. I don't
8 specifically recall.

9 Q. Okay. So if you could turn to
10 page -- starting on page 3 of this exhibit,
11 press release, and I would just like to focus
12 you in on this issue. It is the third
13 paragraph from the bottom, and I'll just read
14 it.

15 "My third announcement arises
16 from Operation Darkness Falls, a joint
17 operation against dark net fentanyl
18 traffickers by the FBI, the IRS, our Postal
19 Inspectors and Homeland Security
20 investigators, again right here in northern
21 Ohio.

22 "Today I'm announcing that this
23 office has charged a husband and wife who, at
24 the time of their arrest, were the most
25 prolific dark fentanyl vendor in the United